

## REMARKS

In accordance with the foregoing, claims 1, 14, 18, have been amended. Claims 4-13, 17 and 24-33 have been cancelled. Claims 1-3, 14-16, 18-23 and 34-35 are pending and under consideration.

### Election/Restriction

The March 16, 2005 Office Action (hereafter "Office Action") in item 2 mistakenly characterized the withdrawn claims as "claims 5-13 and 24-36" (Office Action, page 2, line 9). However, only claims 1-33 were pending at the time of the election/restriction requirement; therefore, the withdrawn claims should be 5-13 and 24-33.

### Rejections under 35 U.S.C. § 102(e)

In items 8-17 of the Office Action, claims 1, 14 and 18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nepustil (US 6,240,454) and were separately rejected under 35 U.S.C. § 102(e) as being anticipated by Zisapel (US 6,665,702). The rejections are respectfully traversed.

Claims 1, 14 and 18 are herein amended to recite sending or receiving "electronic mail" for client/user notification associated with server service requests. Nothing has been cited or found in either Nepustil or Zisapel that teaches or suggests "requesting another server device to process the service request by sending electronic mail to the user" (claim 1, lines 5-6; and claim 18, lines 7-8). Furthermore, nothing has been cited or found in either Nepustil or Zisapel that teaches or suggests "receiving by electronic mail at the client device a result of processing by another server device" (claim 14, lines 6-7). In Figs. 3-5 and column 4, lines 32-50, Nepustil discloses low-level network communications techniques of continuously looping server signals for checking load levels of a given server and causing requests for information to be directed to an appropriate server. At column 3, lines 28-47, Zisapel also discloses low-level network communications using "Transmission Control Protocol ACK", "UDP" requests and pinging signals for polling availability of load balancers. None of these disclosures teaches or suggests high-level network communications techniques such as electronic mail. Therefore, independent claims 1, 14 and 18 as amended are in condition for allowance and it is respectfully requested that the rejections of claims 1, 14 and 18 be withdrawn.

In rejecting claims 4, 5 and 17 in items 27, 28 and 30 of the Office Action, it was alleged that column 7, lines 17-40 of Kraft discloses "sending mail to the user" (Office Action, page 8,

lines 6-7). However, this portion of Kraft describes informing "the client user through the client applet ... of the number of other requesting clients already awaiting service and the estimated times until the download can be started and ... completed." It is submitted that this is not equivalent to or suggestive of using electronic mail to the user as recited in claims 1 and 8 or the limitation involving electronic mail recited in claim 14. Thus, nothing has been cited or found in Nepustil or Kraft, individually or together, that teaches or suggests sending mail—either e-mail or hardcopy mail—to a user.

#### **Rejections under 35 U.S.C. § 103(a)**

In the Office Action, claims 2-4, 15-17 and 19-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nepustil in view of Kraft (US 6,832,239). Claims 4 and 17 have been canceled and incorporated into claims 1 and 14, respectively.

As discussed above, nothing was cited or has been found in either Nepustil or Kraft suggesting "sending electronic mail to the user" (e.g., claim 1, lines 5-6) or "receiving by electronic mail at the client device a result of processing by another server device" (claim 14, lines 6-7). Since all of the independent claims now recite one of these limitations, claims 2, 3, 15, 16 and 19-23 patentably distinguish over Nepustil and Kraft for at least the reasons discussed above.

Furthermore, the Office Action admitted that Nepustil fails to teach or suggest "sending a process delay notification to the user if it is judged that a load on the **other server** device is higher than the predetermined value" (claim 2, lines 6-8; emphasis added). Nothing has been cited or found in Nepustil or Kraft, individually or together, that teaches or suggests determining on another server a predetermined load value and then sending a process delay notice based on the result of that determination. All that is taught by Nepustil (see, Figs. 3-5 and column 4, lines 32-50) is checking load levels of a given server and causing requests for information to be directed to an appropriate server. All that is taught by Kraft (see, Fig. 3C; column 6, lines 39-55; and column 7, lines 17-24) is checking a server load and if the load exceeds the threshold, an applet is downloaded to the client to notify the client of an estimated delay. The Office Action failed to establish a case of *prima facie* obviousness for claim 2, because the applied art references fail to teach or suggest all of the limitations of claim 2.

Claim 3 depends from claim 1 and therefore is allowable for the same reasons as claim 1 discussed above in response to the 35 U.S.C. § 102 rejections.

Claim 15 is dependent from claim 14 and recites limitations similar to claim 2. Therefore, claim 15 is allowable for reasons similar to those discussed above with respect to claim 2.

### New Claims

Newly added independent claim 34 recites "sending a result of the processing of the capacity requests by electronic mail to the user devices" (claim 34, last 2 lines) which is similar to the limitation recited in claims 1, 14 and 18 discussed above. Therefore, it is submitted that claim 34, and claim 35 which depends therefrom, are allowable for at least the same reasons as claims 1, 14 and 18.

### Conclusion

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-3, 14-16, 18-23, 34 and 35 are in a condition for allowance. Entry of the Amendment, reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 6/16/05

By: Richard A. Gollhofer  
Richard A. Gollhofer  
Registration No. 31,106

1201 New York Avenue, NW, Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501

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